

**E-FILING****ADR**

1 Daniel L. Casas, Esq. (SBN 116528)  
 2 Martin H.Q. Nguyen, Esq. (SBN 234127)  
 CASAS RILEY & SIMONIAN, LLP  
 One First Street, Suite 2  
 3 Los Altos, CA 94022  
 (650) 948-7200  
 4 (650) 948-7220 FAX  
 5 Attorneys for Plaintiff  
 DAVID NANCE

MAR 14 2008  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE

7 UNITED STATES DISTRICT COURT  
 8 NORTHERN DISTRICT OF CALIFORNIA  
 9 SAN JOSE DIVISION

11 DAVID M. NANCE,  
 12 Plaintiff,  
 14 v.  
 16 GEORGE SHENG, and PEACE  
 ELECTRONICS, INC., and DOES 1-20,  
 18 Defendants.

Case No. C08 01450  
 COMPLAINT FOR PATENT  
 INFRINGEMENT  
 DEMAND FOR JURY TRIAL

**MEJ**

19 Plaintiff David Nance ("Nance") demands a jury trial on all issues and alleges as follows:

20 I. **JURISDICTION AND VENUE**

22 1. This is an action for patent infringement arising under the Patent Act of the United  
 23 States, 35 U.S.C. 271 and 281. This Court has subject matter jurisdiction over the matters  
 24 complained of under 28 U.S.C. 1338(a) and 1331.

25 2. On information and belief, venue is proper in this judicial district pursuant to 28 U.S.C.  
 26 1400(b) and 1391(c), as defendants George Sheng ("Sheng") and Peace Electronics, Inc.

1 ("Peace") reside, have a regular place of business, and have committed acts of patent  
 2 infringement in this judicial district.

3                   **II. INTRADISTRICT ASSIGNMENT**

4                   3. Pursuant to Civil Local Rule 3-2(e), assignment to the San Jose Division of the U.S.  
 5 District Court for the Northern District of California is appropriate in that Nance's principal place  
 6 of business is in, and a substantial part of the events and damages giving rise to this action  
 7 occurred in the County of Santa Clara.

8                   **III. THE PARTIES**

9                   4. Nance is a United States citizen and individual inventor residing in the County of Santa  
 10 Clara, State of California.

11                  5. On information and belief, Sheng is an individual currently residing in the Northern  
 12 District of California. On information and belief, Sheng is an entrepreneur and an officer,  
 13 director, or manager of Defendant Peace Electronics, Inc.

14                  6. On information and belief, Peace is a corporation organized, existing, and currently  
 15 suspended under the laws of the State of California. Peace is an importer and wholesaler of  
 16 consumer electronics, golf products, household items, and other goods. On information and  
 17 belief, Peace has a principal place of business in Brentwood, California.

18                   **IV. FACTUAL BACKGROUND**

19                  7. Plaintiff Nance is an individual with a penchant for contemporary hairstyle and fashion.  
 20 Nance additionally has interests in sporting activities, including golf. Nance combines his  
 21 interests in sports and fashion to design products that complement contemporary trends.

22                  8. Nance's product line includes, among others, an integrated hairpiece and visor.

23                  9. On May 27, 2006 and May 28, 2006, the City of Morgan Hill promoted and hosted an  
 24 annual festival known as the Mushroom Mardi Gras to celebrate the area's agricultural  
 25 penchant and provide a venue for area vendors to display food, arts and crafts, and other

1 goods for sale. Nance operated a vendor booth at the Mushroom Mardi Gras Fair for display  
2 of his integrated hairpiece and visor. The visor attracted a great deal of attention and foot  
3 traffic from passers-by and festival attendees.

4 10. On each day of the festival, Defendant Sheng operated a vendor booth for the sale of  
5 golf products adjacent to Nance's booth. Due in part to the overwhelming market success of  
6 Nance's visor at the festival, Sheng quickly realized that Nance's visor was a highly attractive  
7 product. Sheng solicited Nance's participation in a commercial affiliation for the sale of  
8 Nance's visor. In particular, Sheng invited Nance to share a booth at an upcoming exposition  
9 for vendors of golf products to coordinate selling of their individual products. Nance  
10 immediately and unequivocally declined. As a courtesy, Nance gave Sheng a visor without  
11 any exchange of consideration.

12 11. On information and belief, Sheng engaged the corporate resources of Peace for the  
13 manufacture, sale, and distribution of visors identical to the visor provided by Nance to Sheng  
14 at the festival.

15 12. On information and belief, Sheng and Peace have made, used, offered to sell and sold,  
16 and continues to make, use, offer to sell and sell, a visor which Sheng refers to by various  
17 product names, including Hairy Visor or Hairy Club Visor.

18 13. When Nance discovered that Sheng and Peace were manufacturing Nance's visor,  
19 Nance gave multiple written demands that Sheng cease and desist sales of Nance's visor.  
20 Sheng ignored or disregarded all such demands. At no time did Sheng request or solicit a  
21 license related to Nance's visor.

22 14. On information and belief, Sheng and Peace are taking the calculated risk of  
23 incorporating what they know to be Nance's patented visor into a visor marketed by Sheng in  
24 order to stimulate sales at Peace and respond to the intense market and financial community  
25 pressure to remain competitive and demonstrate continued growth.

26       ///  
27  
28

**FIRST CAUSE OF ACTION  
(Infringement of the '747 Patent)  
(35 U.S.C. § 271)**

15. Nance incorporates the allegations of paragraphs 1-14 above.

16. On December 18, 2007, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. D55747 ("the '747 Patent"), entitled VISOR, to David M. Nance. Nance is the owner of all right, title and interest in the '747 Patent. A copy of the '747 Patent is attached to the Complaint as **Exhibit A**.

17. On information and belief, Sheng and Peace have been, and currently are, directly and indirectly infringing the '747 Patent by making, using, marketing, selling, reselling, offering for sale, and/or inducing others to use, headwear including, without limitation, Hairy Visor and Hairy Club Visor.

18. On information and belief, Sheng and Peace have had actual and constructive knowledge of the '747 Patent and the application thereto since at least January 30, 2007, and Sheng's and Peace's infringement of the '747 Patent have been willful, and will continue unless enjoined by this court. Pursuant to 35 U.S.C. § 283, Nance is entitled to a permanent injunction against further infringement.

19. As a direct and proximate consequence of the infringement of the '747 Patent by Sheng and Peace, Nance has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Nance is entitled to relief. Pursuant to 35 U.S.C. § 284, Nance is entitled to damages for infringement and treble damages.

11

111

11

111

## V. PRAYER FOR RELIEF

WHEREFORE, Nance prays for judgment against defendants Sheng and Peace as follows:

1. For a judicial determination and declaration that the '747 patent is valid and enforceable;
2. For a judicial determination and declaration that the '747 patent is infringed by Hairy Visor and Hairy Club Visor and such other products by Sheng and Peace as may infringe;
3. For a judicial determination and declaration that Sheng's and Peace's infringement of the '747 patent is willful;
4. For an order preliminarily and permanently enjoining Sheng and Peace, its officers, directors, shareholders, agents, servants, employees and attorneys, and all entities and individuals acting in concert with them or on their behalf, from infringing the '747 patent;
5. For damages according to proof, said damages to be trebled pursuant to 35 U.S.C. § 284 because of Sheng's and Peace's willful infringement;
6. For Nance's attorneys' fees and litigation costs pursuant to 35 U.S.C. § 285;
7. For an award of pre-judgment and post-judgment interest and costs to Plaintiff in accordance with 35 U.S.C. § 284; and
8. For such other and further relief as the Court may deem just and proper.

Dated: March 14, 2008

CASAS RILEY & SIMONIAN, LLP

By: Martin Myn

Martin H.Q. Nguyen  
Attorneys for Plaintiff  
DAVID M. NANCE

VI. **DEMAND FOR TRIAL BY JURY**

1 Plaintiff hereby demands a trial by jury of all issues triable by a jury.  
2  
3

4 Dated: March 14, 2008  
5  
6

CASAS RILEY & SIMONIAN, LLP  
7  
8

By: Martin H.Q. Nguyen  
9 Martin H.Q. Nguyen  
10 Attorneys for Plaintiff  
11 DAVID M. NANCE  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



US00D557478S

(12) **United States Design Patent** (10) Patent No.: **US D557,478 S**  
**Nance** (45) Date of Patent: \*\* Dec. 18, 2007

(54) **VISOR**(76) Inventor: **David M. Nance**, 42 Central Ave. #2,  
Los Gatos, CA (US) 95030(\*\*) Term: **14 Years**(21) Appl. No.: **29/282,545**(22) Filed: **Jul. 23, 2007****Related U.S. Application Data**(63) Continuation of application No. 29/276,388, filed on  
Jan. 24, 2007, now abandoned.(51) LOC (8) Cl. .... **02-03**(52) U.S. Cl. .... **D2/876**(58) Field of Classification Search ..... D2/865,  
D2/866, 871, 872, 873, 875, 876, 879, 882,  
D2/884, 893; 2/65, 171, 171.1, 175.1, 183,  
2/184, 195.1, 195.2, 195.3, 195.4, 200.1,  
2/209.11, 209.12, 209.13, 209.3, 209.5, 209.7;  
362/106

See application file for complete search history.

(56) **References Cited****U.S. PATENT DOCUMENTS**

D237,758 S	11/1975	Huffman
D302,484 S	8/1989	Egan
D357,569 S	4/1995	Jacobellis
5,493,735 A	2/1996	Rice
D413,191 S	8/1999	Thomas
6,016,572 A	1/2000	Park et al.
D442,746 S	5/2001	Belcher
D444,618 S	7/2001	Wilson
D458,734 S	6/2002	Clair
D467,707 S	12/2002	Rothschild
6,658,664 B1	12/2003	Verhoeven
D500,580 S	1/2005	Rothschild
D501,957 S	2/2005	Jagger et al.
D539,010 S	3/2007	Folkes
2002/0095715 A1	7/2002	Hong
2003/0221234 A1	12/2003	Wang
2003/0233696 A1	12/2003	Lee
2004/0006807 A1	1/2004	Wang

**FOREIGN PATENT DOCUMENTS**

EM 00021605-0009 8/2003

**OTHER PUBLICATIONS**Flair Hair Visor—Blond Hair as shown on www.flair-hair.com,  
viewed Jul. 2, 2007 (1 page).

Primary Examiner—Elizabeth A. Albert

Assistant Examiner—Karen E Eldridge Powers

(74) Attorney, Agent, or Firm—James F. Hann; Haynes  
Beffel & Wolfeld LLP(57) **CLAIM**

The ornamental design for a visor, as shown and described.

**DESCRIPTION**

The Visor is used to cover a person's head and shade the person's eyes.

FIG. 1 is a front, right perspective view of a visor showing my new design;

FIG. 2 is a top plan view thereof;

FIG. 3 is a front elevation will view thereof;

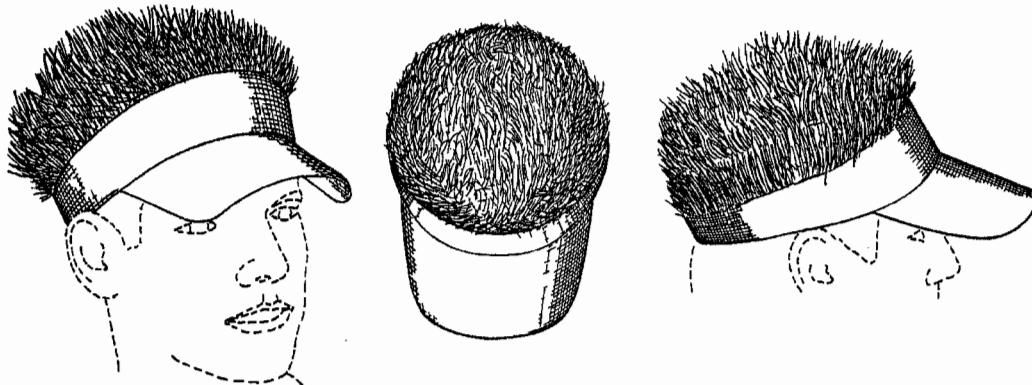
FIG. 4 is a right-sided elevational view thereof, the left side elevational view being a mirror image; and,

FIG. 5 is a back elevational view thereof.

The broken line showing of a person wearing the visor is for illustrative purposes only and forms no part of the claimed design.

The design consists partly of simulated hair. Inconsistencies between the way the simulated hair appears in the different views are understood to be caused by the variations in the organic material of the simulated hair, and to the different viewpoints from which the visor is shown. The minor variations from one view to another do not render the designs patentably distinct, but are due to the organic nature of the simulated hair.

The crosshatched pattern, although shown intermittently, is meant to represent fabric, and is understood to be distributed uniformly over the surfaces of the claimed design.

**1 Claim, 3 Drawing Sheets**

EXH A

**U.S. Patent**

Dec. 18, 2007

Sheet 1 of 3

**US D557,478 S**



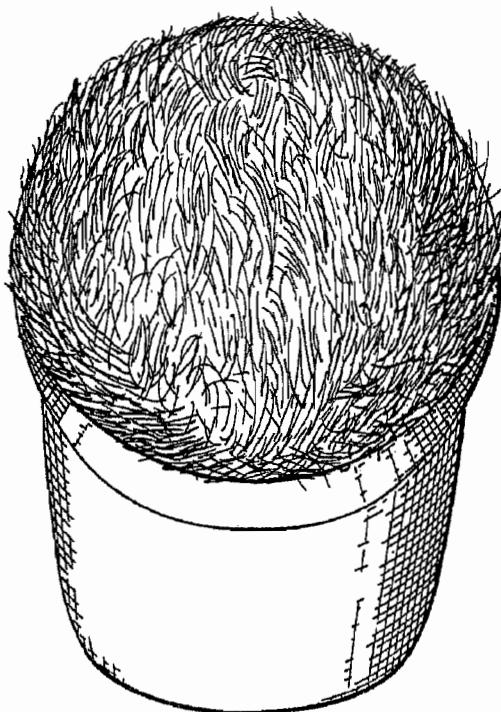
*FIG. 1*

**U.S. Patent**

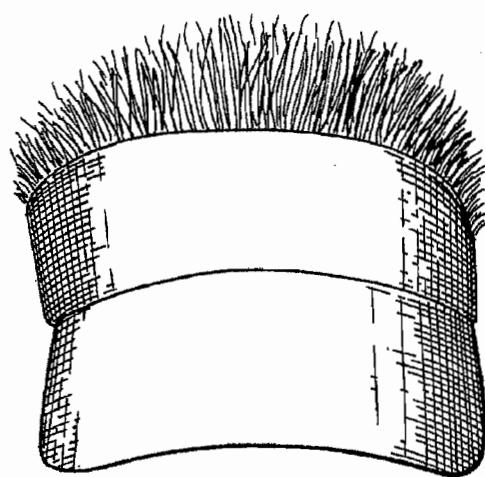
Dec. 18, 2007

Sheet 2 of 3

**US D557,478 S**



*FIG. 2*



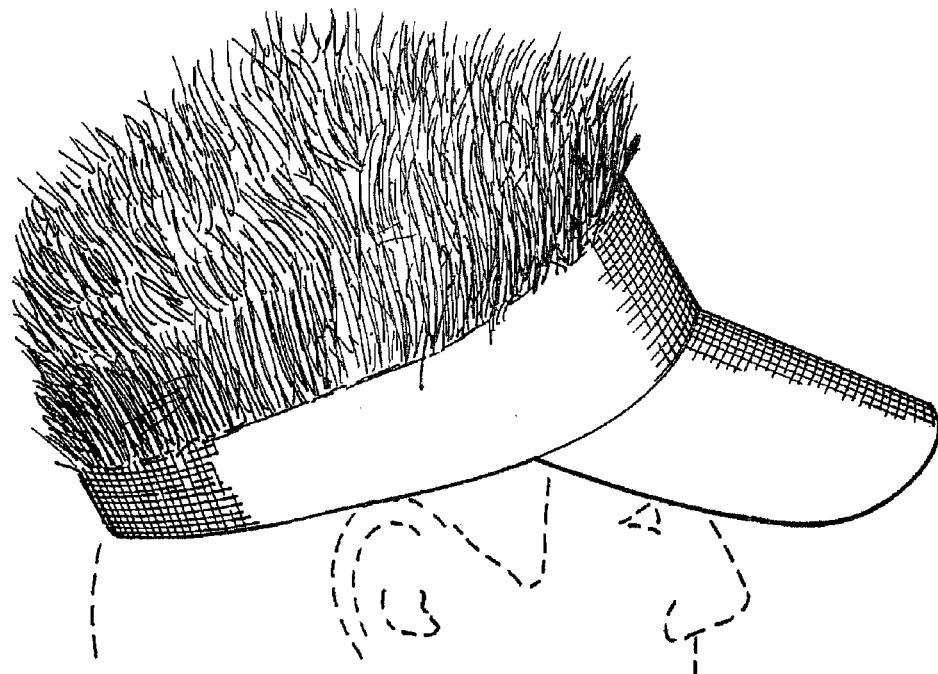
*FIG. 3*

**U.S. Patent**

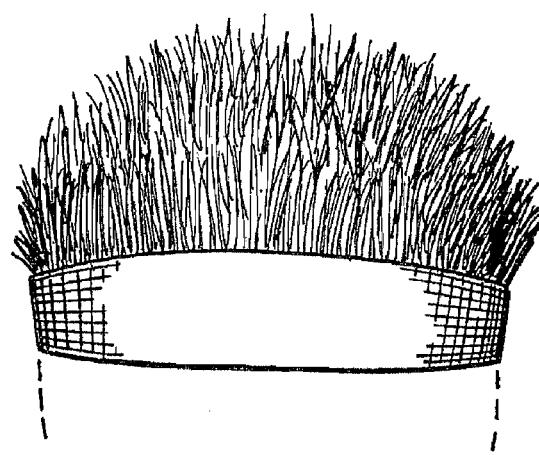
Dec. 18, 2007

Sheet 3 of 3

**US D557,478 S**



**FIG. 4**



**FIG. 5**

JS 44 (Rev. 12/07) (cand rev 1-16-08)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

**I. (a) PLAINTIFFS**

DAVID M. NANCE

**DEFENDANTS**

GEORGE SHENG, PEACE ELECTRONICS, INC.

**E-FILING**(b) County of Residence of First Listed Plaintiff Santa Clara  
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Alameda  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Daniel L. Casas, Esq.  
Casas Riley & Simonian, LLP  
One First Street, Suite 2  
Los Altos, CA 94022

Attorneys (If Known)

**C08 01450 ADR MEJ****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff (For Diversity Cases Only) and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>PROPERTY RIGHTS</b>	<b>400 State Reapportionment</b>
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input checked="" type="checkbox"/> 830 Patent	<input type="checkbox"/> 880 Other Statutory Actions
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Civil Rights	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 893 Environmental Matters
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 515 Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 900 Appeal of Fee Determination
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RS1 (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	
V. ORIGIN	(Place an "X" in One Box Only)			
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	Transferred from (specify)
				<input type="checkbox"/> 5 another district
				<input type="checkbox"/> 6 Multidistrict Litigation
				<input type="checkbox"/> 7 Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. 271, 35 U.S.C. 281

**VI. CAUSE OF ACTION**Brief description of cause:  
patent infringement**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ According to Proof CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No**VIII. RELATED CASE(S) IF ANY**PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE  
"NOTICE OF RELATED CASE".**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)  
(PLACE AND "X" IN ONE BOX ONLY)** SAN FRANCISCO/OAKLAND SAN JOSEDATE  
March 14, 2008

SIGNATURE OF ATTORNEY OF RECORD

*Mark Myh*

Court Name: U.S. District Court, NDCA  
Division: 5  
Receipt Number: 54611002785  
Cashier ID: waltonb  
Transaction Date: 03/14/2008  
Payer Name: Reynolds Casas and Riley LLP

**CIVIL FILING FEE**

For: David M. Nance  
Case/Party: D-CAN-5-08-CV-001450-001  
Amount: \$350.00

**CHECK**

Check/Money Order Num: 3928  
Amt Tendered: \$350.00

Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

Case Assigned to MEJ

Checks and drafts are accepted  
subject to collections and full  
credit will only be given when the  
check or draft has been accepted by  
the financial institution on which  
it was drawn.